

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NEW YORK CITY DISTRICT COUNCIL OF
CARPENTERS PENSION FUND, NEW YORK CITY
DISTRICT COUNCIL OF CARPENTERS ANNUITY
FUND and NEW YORK CITY DISTRICT COUNCIL
OF CARPENTERS APPRENTICESHIP,
JOURNEYMAN RETRAINING, EDUCATIONAL
AND INDUSTRY FUND, by their trustees, FRANK
SPENCER, DOUGLAS J. MCCARRON, JOHN
BALLANTYNE, PAUL TYZNAR, PAUL O'BRIEN,
KEVIN M. O'CALLAGHAN, CATHERINE
CONDON, DAVID MEBERG, BRYAN WINTER and
JOHN DELOLLIS,

Plaintiffs,

-against-

MICHAEL FORDE, JOHN GREANEY, JOSEPH
OLIVIERI, BRIAN HAYES, MICHAEL MITCHELL,
FINBAR O'NEILL, K.A.F.C.I., MICHAEL BRENNAN,
TURBO ENTERPRISES, INC., GERARD MCENTEE,
PYRAMID ASSOCIATES CONSTRUCTION CORP.,
JAMES DUFFY, BRIAN CARSON, JOSEPH RUOCCO,
JOHN STAMBERGER and MICHAEL VIVENZIO,

Defendants.

Case No. 11-Civ.-5474

NOTICE OF MOTION

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law, Declaration of Brian Gardner with attached exhibits, and upon all of the prior papers and proceedings had in this action, Defendant Joseph Olivieri hereby move this Court, before the Honorable Leonard B. Sand, at the United States Courthouse, 500 Pearl Street, New York, New York, 10007, for an Order and Judgment pursuant to Federal Rules of Civil Procedure 12(b)(6) dismissing the Complaint as against Olivieri, along with such other and further relief as the Court deems just and proper.

PLEASE TAKE FURTHER NOTICE that oral argument is requested.

Dated: New York, New York
February 10, 2012

SULLIVAN GARDNER PC

By: /s/ Brian Gardner
Brian Gardner
Attorneys for Defendant Joseph Olivieri
7 East 20th Street
New York, New York 10003
(212) 687-5900 (phone)
(212) 687-4060 (fax)
bg@sullivangardner.net

To:

Raymond G. McGuire
KAUFF MCGUIRE & MARGOLIS LLP
Attorneys for Plaintiffs
950 Third Avenue
Fourteenth Floor
New York, NY 10022
(212) 644-1010